UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,496	09/19/2003	Makoto Akune	7217/70907	8021

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EXAMINER
DAILEY, THOMAS J

ART UNIT	PAPER NUMBER
2452	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 August 2009*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *28-34* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *28-34* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☒ All   b)☐ Some * c)☐ None of:

       1.☒ Certified copies of the priority documents have been received.

       2.☐ Certified copies of the priority documents have been received in Application No. _____.

       3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____ .

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set

    forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since

    this application is eligible for continued examination under 37 CFR 1.114, and the

    fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous

    Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's

    submission filed on August 10, 2009 has been entered.

2. Claims 28-34 are pending.

Response to Arguments

3. Applicant's arguments filed August 10, 2009 have been fully considered but they

    are not persuasive.

4. The applicant argues with respect to the prior art rejections of the independent

    claims that neither Kidder (US Pat. 6,363,413) nor Parkkinen (US Pat. 7,072,366)

    disclose "base data representing the content at a first quality" and "upgrade data

    being difference data that is combined with the base data to generate data

    representing the content at a second quality that is higher than the first quality."

    Specifically, the applicant contends Kidder appears to disclose the transmission

    of different versions of a video clip for purposes of combining the versions to form

    a new version, but does not disclose the transmission of a version and difference

data for purposes of combining the version with the difference data to form a new

version.

5. The examiner disagrees. Kidder discloses the base data representing the content

at a first quality (column 7, lines 36-43, V1 and A1 represent the base data at a

first quality), and the upgrading data being difference data that is combined with

the base data to generate data representing the content at a second quality that

is higher than the first quality (column 6, lines 50-57, V2 and A2 represent the

upgrade data, and the second quality is represented by V1+V2 and A1+A2; i.e.

making V2 and A2 the difference between the first and second qualities).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 28-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Kidder (US Pat. 6,363,413) in view of Parkkinen et al (US Pat. 7,072,366),

hereafter "Parkkinen."

8. As to claim 28, Kidder discloses a content server for distributing upgraded

content data, comprising:

a network interface for receiving an upgrade request from a user for content

data previously downloaded by the user from the content server as base data of

a first format (column 7, lines 36-43, the second user request for the video

indicates the bit streams already in possession of the user (A1 and V1)

whereupon the server sends the upgrading data (audio stream A2 and video

stream V2) that is combined with the previously transmitted data in column 7,

lines 50-57 in order to create a higher quality video clip);

a storage unit having a user-related information section for checking user-

related information of the base data previously downloaded by the user (column

7, lines 36-43, information regarding the video data previously sent to the user is

processed by the server);

an upgrading-data generating unit for generating upgrading data of the

content data to upgrade the previously downloaded base data of the first format

to the target format (column 7, lines 36-43, server generates video data V2 and

audio data A2), the upgrade-data being generated on a user-to-user basis by

reviewing a usage-history of the user to determine the first format (column 7,

lines 36-44, user requests video clip for a second time and informs the server of

the first format (i.e. bit rate apportionment) that the user received as a result of

the first request (i.e. a usage history)); and

the network interface transmitting the upgrading data to the user in response

to the upgrade request (column 7, lines 36-43),

the base data representing the content at a first quality (column 7, lines 36-

43, V1 and A1 represent the base data at a first quality), and the upgrading data

being difference data that is combined with the base data to generate data

representing the content at a second quality that is higher than the first quality

(column 6, lines 50-57, V2 and A2 represent the upgrade data, and the second

quality is represented by V1+V2 and A1+A2; i.e. making V2 and A2 the

difference between the first and second qualities).

But, Kidder does not explicitly disclose calculating the difference between the

data in the first format and the data in the target format. Rather, Kidder's request

is a generic request to improve the quality of the video, with no specific target

format in mind; hence there is no explicit calculation of a difference.

However, Parkkinen discloses specifying a target format of a combination of

previously received content data and upgrade data (column 4, lines 56- lines 66)

and upgrading data that indicates the difference between the data in the first

format and the data in the target format (column 6, lines 43-55, via the control

information and enhancement data stream (upgrade data), the control unit can

determine the difference between the target stream and the core stream).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Kidder and Parkkinen in order to allow user control of the quality of the content data they receive from a content server.

9. As to claim 31, Kidder discloses a personal terminal for the playback of content data, comprising:

a network interface for sending an upgrade request to a content server for content data previously downloaded by a user as base data of a first format and receiving upgrading data of the content data in response (column 7, lines 36-43, the second user request for the video indicates the bit streams already in possession of the user (A1 and V1) whereupon the server sends the upgrading data (audio stream A2 and video stream V2) that is combined with the previously transmitted data in column 7, lines 50-57 in order to create a higher quality video clip), the upgrade-data being generated on a user-to-user basis by reviewing a usage-history of the user to determine the first format (column 7, lines 36-44, user requests video clip for a second time and informs the server of the first format (i.e. bit rate apportionment) that the user received as a result of the first request (i.e. a usage history));

a content-data combining unit for combining the upgrading data with the previously downloaded base data, whereby the base data is upgraded to the target format (column 7, lines 50-57, the first data stream is read from the cache

and combined with the recently received second data stream with the end result

being a video clip of higher quality); and

an audio-signal processing unit for playback of the upgraded base data

having the target format (column 7, lines 50-57, upgraded video clip with audio

data can be played back for the user),

the base data representing the content at a first quality (column 7, lines 36-

43, V1 and A1 represent the base data at a first quality), and the upgrading data

being difference data that is combined with the base data to generate data

representing the content at a second quality that is higher than the first quality

(column 6, lines 50-57, V2 and A2 represent the upgrade data, and the second

quality is represented by V1+V2 and A1+A2; i.e. making V2 and A2 the

difference between the first and second qualities).

But, Kidder does not explicitly disclose calculating the difference between the

data in the first format and the data in the target format. Rather, Kidder's request

is a generic request to improve the quality of the video, with no specific target

format in mind; hence there is no explicit calculation of a difference.

However, Parkkinen discloses specifying a target format of a combination of

previously received content data and upgrade data (column 4, lines 56- lines 66)

and upgrading data that indicates the difference between the data in the first

format and the data in the target format (column 6, lines 43-55, via the control

information and enhancement data stream (upgrade data), the control unit can

determine the difference between the target stream and the core stream).

Therefore, it would have been obvious to one of ordinary skill in the art at the

time of the invention to combine the teachings of Kidder and Parkkinen in order

to allow user control of the quality of the content data they receive from a content

server.

10. As to claim 34, it is rejected by the same rationale set forth in claim 28's

rejection.

11. As to claims 29 and 32, Kidder discloses the base data includes a header

comprising content-grade identification information indicating the first format

(column 7, lines 36-39).

12. As to claims 30 and 33, Kidder discloses the higher quality is at least one of a

higher sampling frequency and a higher bit rate of the content data (column 7,

lines 50-64).

Conclusion

13. Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Thomas J. Dailey whose telephone number is

571-270-1246. The examiner can normally be reached on Monday thru Friday;
9:00am - 5:00pm.

14. If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor, John Follansbee can be reached on 571-272-3964. The fax phone
number for the organization where this application or proceeding is assigned is
571-273-8300.

15. Information regarding the status of an application may be obtained from the
Patent Application Information Retrieval (PAIR) system. Status information for
published applications may be obtained from either Private PAIR or Public PAIR.
Status information for unpublished applications is available through Private PAIR
only. For more information about the PAIR system, see http://pair-
direct.uspto.gov. Should you have questions on access to the Private PAIR
system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-
free). If you would like assistance from a USPTO Customer Service
Representative or access to the automated information system, call 800-786-
9199 (IN USA OR CANADA) or 571-272-1000.

/T. J. D./
Examiner, Art Unit 2452

/Dohm Chankong/
Primary Examiner, Art Unit 2452